IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.2810 OF 2004

Jayant Krishnaji Karulkar ... Petitioner

V/s.

State of Maharashtra & Ors. ... Respondents

Mr.G.D. Talreja i/b G.D. Talreja & Associates for Petitioner
Mr.Milind More, AGP, for Respondent Nos.1,3,4 and 5
Mr.R.S. Deshpande for Respondent No.2

CORAM: **F.I. REBELLO, J.**

DATED: **OCTOBER 26, 2004**

P.C.:

. On failure by the Petitioner to pay the society's dues, the society applied under section 101 of the Maharashtra Cooperative Societies Act. It was the case of the society that the Petitioner had paid the dues from 1985 to 1990 but from 1990 to 1996 he has not been paying the maintainance charges. From the order of the Deputy Registrar, the only serious contention as raised seems to be that the Resolution of the society fixing the maintainance charges does not have a sanction/permission of the Registrar. That argument was rejected and in light of that, the order was passed allowing the claimants right.

2. Aggrieved thereby, the petitioner preferred a revision application. After hearing the parties, the learned Registrar was pleased to dismiss the revision application. A specific finding has been recorded that the law of limitation is not applicable and for the reasons set out therein, dismissed the revision application No.527 of 2002. It was these orders which are the subject matter of the present challenge. On behalf of the Petitioner, the learned Counsel contends that the amount claimed and paid in fact was not due and payable considering the amounts as worked out by him are different. Secondly, the Society contended that the Petitioner is to pay interest @ 12% whereas he has been charged @ 18%.

3. In so far as the first contention is concerned, considering it is purely a finding of fact it will not be open to this Court in the exercise of its extra ordinary jurisdiction under Articles 226 and 227 of the Constitution of India to interfere with said finding of fact. There was no serious challenge before the learned Registrar on that count. In so far as the second contention is concerned, though Exhibit A shows interest charged was to be at the rate of 12%, on behalf of the Society, their learned Counsel has produced the records to show that the bye-law was amended and interest was

raised to 18% and that is the interest that is being charged. Considering the above, the second contention is also rejected. In light of this, I do not find any merits in this Petition. Petition rejected.

4. However, the balance amount due shall be paid over in three instalments. The first of such instalment to be paid on or before 22.11.2004, the second instalment to be paid on or before 22.12.2004 and the last instalment to be paid on or before 22.1.2005. If there is any default in payment, it will be open to the Society to recover the entire amount in accordance with law.